

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, DC 20554**

In the Matter of	)	
	)	
Stale or Moot Docketed Proceedings	)	
	)	
1993 Annual Access Tariff Filings Phase I	)	CC Docket No. 93-193
	)	
1994 Annual Access Tariff Filings	)	CC Docket No. 94-65
	)	
AT&T Communications Tariff F.C.C. Nos. 1 and 2, Transmittal Nos. 5460, 5461, 5462 and 5464 Phase II	)	CC Docket No. 93-193
	)	
Bell Atlantic Telephone Companies Tariff F.C.C. No.1, Transmittal No. 690	)	CC Docket No. 94-157
	)	
NYNEX Telephone Companies Tariff F.C.C. No. 1, Transmittal No. 328	)	

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**COMMENTS OF SBC COMMUNICATIONS INC.**

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**COMMENTS OF SBC COMMUNICATIONS INC.**

SBC Communications, Inc. (SBC), on behalf of Ameritech Illinois d/b/a SBC Illinois, Ameritech Indiana d/b/a SBC Indiana, Ameritech Michigan d/b/a SBC Michigan, Ameritech Ohio d/b/a SBC Ohio, Ameritech Wisconsin d/b/a SBC Wisconsin, Nevada Bell Telephone Company d/b/a SBC Nevada, Pacific Bell Telephone Company d/b/a SBC California, and Southwestern Bell Telephone L.P., SBC Southwest (“SBC LECs”), hereby submits these comments in response to the *Reinstatement Notice* issued in the above-captioned proceeding.<sup>1</sup>

**I. INTRODUCTION AND SUMMARY**

In the *Reinstatement Notice*, the Commission asks parties to refresh the record on two issues. The first, whether the LECs’ recovery of other post retirement employee benefit

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<sup>1</sup> *State or Moot Docketed Proceedings; 1993 Annual Access Tariff Filings Phase I; 1994 Annual Access Tariff Filings*, Docket Nos. 93-193, 94-65, 94,157, *Order, Notice and Erratum*, 18 FCC Rcd 2550 (2003) (*Reinstatement Notice*).

(“OPEB”)<sup>2</sup> costs for years 1991 and 1992 was proper, is not relevant to the SBC LECs and thus will not be addressed here. The second, whether the LECs’ rate base treatment of OPEBs in their 1996 Annual Access Tariffs was lawful, is relevant to the SBC LECs and will be addressed below.

Before reaching the merits of the issue at hand, SBC below demonstrates that the Commission lacks the requisite authority to resume this Section 204 investigation. First, SBC shows that Section 204(a)(2) of the Communications Act of 1934, as amended, required the Commission to conclude its investigation into the lawfulness of the SBC LECs’ 1996 Annual Access Tariff Filings within 5 months of the effective date of the tariffs, which would have been December 1996. The Commission failed to do so and accordingly cannot now resurrect this Section 204 investigation. Second, because the Commission terminated CC Docket No. 94-157 on January 11, 2002 and did not take timely action to reinstate the proceeding within 30 days, pursuant to Section 1.108 of the Commission’s rules, the Commission is procedurally barred from reinstating the proceeding.

Third, even if the Commission can legally justify reinstatement of the proceeding, SBC demonstrates below that there is no need to further investigate SBC’s rate base treatment of OPEBs in its 1996 tariff filings. As SBC’s previous comments and the supplemental information provided herein show, the SBC LECs’ treatment of OPEBs in their 1996 tariff filings was proper and fully consistent with the Commission’s rules.

## **II. BACKGROUND**

In 1992, the Common Carrier Bureau issued Responsible Accounting Officer Letter (RAO) 20, which, among other things, directed price cap LECs to exclude accrued OPEB liabilities from their interstate rate bases and include prepaid OPEB benefits in their rate bases.<sup>3</sup> The Bureau reasoned that accrued OPEB benefits were similar to

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<sup>2</sup> OPEBs are retiree benefits other than pensions, such as health and dental.

<sup>3</sup> *Uniform Accounting for Post Retirement Benefits Other Than Pensions in Part 32*, 7 FCC Rcd 2872 (1992) (RAO 20).

accrued pension benefits, which were expressly excluded from the rate base under the Commission's rules. Accordingly, the Bureau concluded that OPEB costs likewise should be excluded from the rate base.<sup>4</sup>

In 1996, the FCC rescinded the portion of RAO 20 that addressed the rate base treatment of OPEB costs. The Commission held that the Bureau exceeded its delegated authority by directing price cap LECs to exclude costs from their rate bases in a way that was not explicitly provided for in the rules.<sup>5</sup>

In response to the *Rescission Order*, the SBC LECs (and other price cap LECs) revised their 1992-1994 interstate rate of return and related sharing calculations to remove the rate base reduction for accrued OPEB costs. This revision reduced the amount of sharing that had previously been returned to ratepayers. In order to recover this "excessive sharing," the SBC LECs increased their interstate rates for the 1996 tariff year by the amount of the excessive sharing. In addition, the 1995 interstate rate of return and sharing amounts (which had not yet been filed) were also calculated without reducing the interstate rate base by the accrued OPEB costs.

The FCC suspended the tariffs for one day, issued an accounting order and initiated an investigation.<sup>6</sup> The Commission added this issue to an ongoing investigation concerning other OPEB-related issues, CC Docket No. 94-157. The FCC, however, did not issue an order designating specific issues for investigation or take any further action

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<sup>4</sup> *Id.*

<sup>5</sup> *Responsible Accounting Officer Letter 20, Uniform Accounting for Post Retirement Benefits Other Than Pensions in Part 32 Amendments to Part 65, Interstate Rate of Return Prescription Procedures and Methodologies, Subpart G, Rate Base*, CC Docket No. 96-22; AAD 92-65, *Memorandum Opinion and Order and Notice of Proposed Rulemaking*, 11 FCC Rcd 2957 (1996) (*Recission Order*).

<sup>6</sup> *1996 Annual Access Tariff Filings; National Exchange Carrier Association Universal Service Fund and Lifeline Assistance Rates; NYNEX Telephone Company Petition to Advance the Effective Date of the 5.3 X-Factor to January 1, 1995*, Transmittal No. 710, *Memorandum Opinion and Order*, 11 FCC Rcd 7564 (1996) (*1996 Suspension Order*).

in the proceeding. In 1997, the Commission issued an order addressing prospectively the rate base treatment of OPEBs,<sup>7</sup> which had no impact on the pending investigation.

After a significant period of inactivity, *six years*, the Commission on January 11, 2002, released an order terminating CC Docket No. 94-157.<sup>8</sup> No party sought reconsideration of the *Termination Order* under Section 47 U.S.C. sec. 405(a), nor did the Commission avail itself of Section 1.108 of its rules to set aside its termination of CC Docket No. 94-157. Nevertheless, on February 25, 2003, more than a year after release of the *Termination Order*, the Commission issued the *Reinstatement Notice*, reinstating CC Docket No. 94-157 and seeking comment on OPEB-related issues. For SBC, the relevant issue is whether its LECs' rate base treatment of OPEBs in their 1996 tariff filings was lawful.

### **III. THE COMMISSION IS PROCEDURALLY BARRED FROM REINSTATING CC DOCKET NO. 94-157.**

As a threshold matter, the Commission is procedurally barred under Section 204 of the Act and Section 1.108 of its rules from resuming its 1996 investigation of the LECs' rate base treatment of OPEBs.<sup>9</sup>

Section 204(a) specifically governs investigations surrounding new or revised charges and permits the Commission to engage in pre-effective and post-effective investigations into such charges. This post-effective investigative authority, however, is circumscribed by the time limitations imposed under Section 204(a)(2). Pursuant to this subsection, the Commission may investigate the lawfulness of any new tariff filing after the tariff becomes effective, but must issue an order concluding the investigation within 5

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<sup>7</sup> *Responsible Accounting Officer Letter 20, Report and Order*, 12 FCC Rcd 2321 (1997).

<sup>8</sup> *Termination of Stale or Mute Docketed Proceedings*, 17 FCC Rcd 1199 (2001) (*Termination Order*).

<sup>9</sup> SBC elaborated on these issues in its comments in support of Verizon's Petition for Reconsideration, filed on April 7, 2003.

months of the effective date of the tariff.<sup>10</sup> Here, the Commission properly issued an order suspending the 1996 tariffs for one day, and imposed an accounting order. The Commission, however, failed to issue an order designating issues for investigation or an order resolving the issues raised in the *1996 Suspension Order* within the 5-month statutory timeframe. Accordingly, the Commission cannot now, *six* years after the fact, resurrect this investigation to determine the lawfulness of the 1996 tariffs and possibly order refunds.

The *Reinstatement Notice* is a particularly egregious violation of Section 204 given that Congress has twice adopted legislation to constrain the time the Commission may take to complete a tariff investigation. Section 204(a) of the Act did not always impose a time limitation for investigations into the lawfulness of new tariff rates or practices. Up until 1988, no time limitation existed. In 1988, however, Congress added subsection (2) to Section 204(a), imposing a 12-month limitation on Section 204 tariff investigations. Congress later concluded that the 12-month period was still insufficient to ensure timely resolution of tariff investigations and accordingly amended Section 204(a)(2) in 1996 to require the Commission to complete tariff investigations involving new tariff rates or practices within 5 months.

Section 204(a)(2)(A) is in no way ambiguous. All investigations commenced under Section 204(a) after 1996 must be concluded within 5 months after the effective date of the tariffs. To resurrect this proceeding six years after initiation of the investigation would render Section 204(a)(2)(A) a nullity, and fly in the face of Congress' decision to limit the timeframe in which Commission must conclude Section 204 investigations.<sup>11</sup>

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<sup>10</sup> 47 U.S.C. §204. Specifically, §204(a)(2)(A) states, "Except as provided in subparagraph (B), the Commission shall, with respect to any hearing under this section, issue an order concluding such hearing within 5 months after the date that the charge, classification, regulation, or practice subject to the hearing becomes effective."

<sup>11</sup> Not only is the reinstatement barred under the Act, so would a Section 208 complaint if one were filed.

Likewise, the FCC procedurally is barred under Section 1.108 of its rules from reinstating CC Docket No. 94-157 more than a year after termination of the proceeding. In the *Reinstatement Notice*, the Commission states that its inclusion of CC Docket No. 94-157 in the *Termination Order* was “an inadvertent technical error” and that the “Commission never intended to terminate the OPEB tariff investigation in this docket.”<sup>12</sup> Even if true, the Commission failed to take timely action to correct the error.

Section 1.108 permits the Commission to set aside any action it takes, but requires the Commission to do so within 30-days of public notice of the action.<sup>13</sup> The Commission terminated CC Docket No. 94-157 in an order released on January 11, 2002 and did not take steps to set aside the termination, as permitted under Section 1.108 of its rules. The Commission certainly could have done so within the permissible 30-day window and indeed has done so in numerous instances.<sup>14</sup> Further, no party sought reconsideration of the *Termination Order* under Section 47 U.S.C. §405(a). The Commission cannot now take action to correct this purported error, relying on Section 4(i), which confers only ancillary, not substantive authority. The Commission expects and requires carriers to adhere to their rules, both procedural and substantive. It cannot require less of itself.

#### **IV. THERE IS NO NEED TO INVESTIGATE THE LAWFULNESS OF THE SBC LECs’ 1996 ANNUAL ACCESS TARIFF FILINGS.**

In the *Reinstatement Notice*, the Commission asks interested parties to refresh the record in CC Docket No. 94-157. Specifically, the Commission directs interested parties

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<sup>12</sup> *Reinstatement Notice* ¶21.

<sup>13</sup> 47 C.F.R. §1.108.

<sup>14</sup> See *Request for Review of the Decision of the Universal Service Administrator by Queen of Apostles School, Alexandria, Virginia, Order on Reconsideration*, CC Docket Nos. 96-45, 97-21 18 FCC Rcd 1711 (2003); *Southwestern Bell Telephone Company, Tariff F.C.C. No. 73, Transmittal No. 2913, Order on Reconsideration*, 17 FCC Rcd 21528 (2002).



to restate their arguments and identify those portions of their previous filings that remain relevant or no longer remain relevant.

For SBC, there are two open issues regarding the SBC LECs 1996 Annual Access tariffs. First, whether, in light of the *Recission Order*, the SBC LECs were permitted to include OPEB costs in their rate base under the then existing rules. Second, whether the SBC LECs' rate base treatment of OPEBs was lawful. While SBC fully addressed these issues in its Replies to Petitions to Reject its 1996 tariff filings,<sup>15</sup> the Commission determined in the *1996 Suspension Order* that investigation was warranted with respect to the foregoing issues. Below, SBC addresses these issues, restating its arguments and where possible, supplementing the record.

**A. In light of the *Recission Order*, the SBC LECs were required to include the omitted OPEB costs into their rate base.**

On May 4, 1992, the Common Carrier Bureau released RAO 20, which identified the Part 32 accounts that carriers were to use to record OPEB costs pursuant to SFAS-106. Among other things, RAO 20 required the LECs to exclude accrued OPEB liabilities from their interstate rate base and to include prepaid OPEB benefits in their interstate rate base. In compliance with this order, the SBC LECs excluded the accrued OPEB liability from their interstate rate base in their original 1993 and 1994 annual access tariff filings.<sup>16</sup> On March 7, 1996, the Commission rescinded the portion of RAO 20 that directed carriers to exclude from and add to the rate bases OPEB costs that were not specifically authorized by Part 65 of the Commission's rules. In response to the

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<sup>15</sup> Opposition of Ameritech, Transmittal No. 961 (filed May 13, 1996) (Ameritech Reply); Response of Nevada Bell to Petitions to Reject or Suspend and Investigate 1996 Annual Access Tariff Filing, Transmittal No. 217 (filed May 13, 1996) (Nevada Bell Reply); Response of Pacific Bell to Petitions to Reject or Suspend and Investigate 1996 Annual Access Tariff Filing, Transmittal No. 1864 (filed May 13, 1996) (Pacific Bell Reply); Reply Comments of Southwestern Bell, (filed May 13, 1996) (Southwestern Bell Reply). These Replies are attached hereto in Attachment Two, Exhibits 1 through 4.

<sup>16</sup> Ameritech excluded accrued OPEB liabilities for 1992 as well.

*Rescission Order*, all the SBC LECs recalculated their 1992, 1993, 1994 and 1995 rates of return to remove the rate base reduction for the accrued OPEB liability. This recalculation affected the amounts the LECs were required to share with ratepayers.

In the *1996 Suspension Order*, the Bureau stated that it could view the effect of the *Rescission Order* in two ways: 1) that all costs, including OPEB costs that were not specifically excluded in Sections 65.820 and 65.830 of the FCC's rules should be included in the interstate rate base, or 2) the Commission should consider the correct rate base treatment of costs not explicitly identified in Part 65 on a case-by-case basis. Accordingly, the Commission determined that suspension of the tariffs was warranted to determine if the LECs' inclusion of OPEBs in their interstate rate base was permissible under the then existing rules. The former interpretation is the only permissible interpretation.

In the *Rescission Order*, the Commission expressly stated,

[W]e find that RAO 20 exceeded the Bureau's delegated authority to the extent that it directed exclusions from and additions to the rate base for which the Part 65 rules do not specifically provide. Sections 65.820 and 65.830 of our rules define explicitly those items to be included in, or excluded from, the interstate rate base. The Bureau cannot properly address any additional exclusions in an RAO letter."<sup>17</sup>

The second interpretation offered by the Bureau directly contradicts this *Commission* determination. A case-by-case assessment of the correct rate base treatment of OPEBs would amount to the Bureau determining whether OPEB exclusions are permitted. The *Rescission Order* is clear that the Bureau has *no* authority to require exclusions other than those expressly set forth in Part 65 of the Commission's rules. These rules did not expressly exclude OPEB costs from the rate base, accordingly, the Bureau, in 1996, was powerless to determine whether OPEB exclusions were warranted.

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<sup>17</sup> *Rescission Order*, ¶25.

Further, once RAO 20 was rescinded, the LECs were required to add the OPEB liability back into the interstate rate base. Part 65 of the Commission's rules required all costs, including accrued OPEB costs, to be included in the rate base, *unless* a particular cost was expressly excluded. As a result, the LECs had to add the accrued OPEB liability back into their rate base to ensure compliance with the Commission's rules.

AT&T and MCI argued in their Petitions to Reject that the SBC LECs were time-barred under Section 65.600(d) from making the rate base adjustments because the adjustments were not made within 15 months. As the SBC LECs explained in their replies,<sup>18</sup> LECs were permitted under the Commission's rules to make adjustments to their earnings and sharing calculations after the 15-month period.<sup>19</sup> Under the price cap orders, the Commission concluded that the LECs' tariff filings could "reflect any prospective rate adjustment that arises due to the operation of the sharing requirements."<sup>20</sup> Sharing is calculated based on actual earnings and may be recalculated based on changes in those earnings. Inclusion of the OPEB costs affected the SBC LECs earnings, thus necessitating a recalculation of their sharing obligation. The Commission did not place a limit on when adjustments to sharing amounts could be made and none should be inferred.

**B. The adjustments included in the SBC LECs 1996 annual access tariff filings to reflect the revisions to prior sharing amounts due to the rescission of RAO 20 were proper.**

In the *1996 Suspension Order*, the Commission raised several concerns with respect to the LECs treatment of OPEB costs in the 1996 tariff filings. Specifically, the Commission agreed with AT&T that the LECs failed to document and explain the

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<sup>18</sup> Ameritech Reply at 3; Nevada Bell Reply at 3; Pacific Bell Reply at 3; and SWBT Reply at 2-3.

<sup>19</sup> See Attachment Two, Exhibits 1 through 4.

<sup>20</sup> *Policy and Rules Concerning Rates for Dominant Carriers*, 5 FCC Rcd 6786 (1990).

derivation of the rate base adjustments underlying the revisions. With respect to Ameritech, the Commission agreed with AT&T that there is a question as to whether Ameritech for the 1992-1994 period included in its rate base more than it previously excluded pursuant to RAO 20. Further, the Commission concluded that it was not clear how the LECs rate base revisions impacted other indices. Below, SBC addresses these arguments in turn.

**(1) There is sufficient cost support on the record to justify the SBC LECs rate base adjustments.**

The SBC LECs provided the necessary cost support to explain their rate base adjustments in their 1996 tariff filings. In Attachment 1, Exhibits 1 through 4, attached hereto, SBC details the specific cost information reflecting the SBC LECs' rate adjustments and sharing calculations.

**(2) Ameritech did not overstate its rate base calculations for the 1992-1994 period.**

The Commission agreed with AT&T that it was not clear from the record whether Ameritech's rate base adjustment to reflect the rescission of RAO 20 was greater than the amount of the original rate base reduction, resulting in an overstated reduction in sharing. AT&T apparently relied upon data filed in Ameritech's 1995 Direct Case in Docket No. 93-193 and 94-157, as the basis for its allegation. A review of Ameritech's data included in that proceeding clearly shows that AT&T misinterpreted or mis-used the data to reach its conclusion.

AT&T calculated an estimate of the OPEB rate base reduction by developing the interstate incremental FAS 106 costs for a single year – 1993 – and compared that to the 1993 rate base adjustment made by Ameritech. AT&T's calculated adjustment amount of \$14.7M was lower than the \$82.7M adjustment that Ameritech included so AT&T

concluded that Ameritech overstated its adjustment.<sup>21</sup> AT&T's calculation is erroneous because the OPEB liability (account 4310) is a balance sheet account, which means it reflects a cumulative balance of activity for all prior years plus the current year.<sup>22</sup> Ameritech adopted FAS 106 for regulatory accounting purposes in 1991, thus including only 1993 activity, as AT&T did, significantly understates the accumulated balance in the OPEB liability account. Although SBC has been unable to locate exact balances in the OPEB liability account for 1991 and 1992, if you assume that 1991 and 1992 activity were the same as 1993, you can determine the estimated balance in the OPEB liability account at the beginning and end of 1993. As the table below illustrates, when the OPEB liability account is correctly determined, the Ameritech adjustment of \$82.7M is very reasonable.

1. Assumed 1991 interstate incremental OPEB costs <sup>23</sup>	\$29.4M
2. Balance in OPEB liability at 12/31/91	\$29.4M
3. Assumed 1992 interstate incremental OPEB costs *	\$29.4M
4. Balance in OPEB liability at 12/31/92 (Line 2 + Line 3)	\$58.8M
5. 1993 interstate incremental OPEB costs	\$29.4M
6. 1993 interstate curtailment cost <sup>24</sup>	\$24.0M
7. Balance in OPEB liability at 12/31/93 (Lines 4 + 5 + 6)	\$112.2M
8. Average 1993 OPEB liability balance (Avg of Lines 4 and 7)	\$85.5M

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<sup>21</sup> See Appendix B-3 of AT&T's Petition to Reject, or in the Alternative Suspend (filed 1996).

<sup>22</sup> This is true for all accounts used to develop of the rate base.

<sup>23</sup> The 1993 amount is per AT&T's analysis in Appendix B-3 and the 1991 and 1992 amounts are assumed to be the same as 1993. Lines 3 and 5 are also based on the foregoing data.

<sup>24</sup> A 1993 force reduction plan resulted in additional FAS 106 curtailment costs.

It is clear that Ameritech did not overstate its RAO 20 related rate base adjustment when the OPEB liability is properly interpreted and computed.

**(3) The SBC LECs have shown how their rate base revisions impacted other indices.**

In the *1996 Suspension Order*, the Commission agreed with AT&T and MCI that it was unclear whether “the LECs that have included accrued OPEB liability costs in their rate base for prior years have calculated correctly the impact of these costs on other indices.”<sup>25</sup> In their Replies to Petition to Reject,<sup>26</sup> the SBC LECs demonstrated to what extent any other indices were effected. Below, SBC clarifies the impact of various exogenous adjustments made during the 1993-1996 time period on the Price Cap Index (PCI)<sup>27</sup> for each basket and the impact of rate base changes on the Common Line basket.

**(a) SBC Correctly Calculated Exogenous Cost Changes**

Exogenous costs changes associated with Subscriber Plant Factor (SPF), Dial Equipment Minutes Factor (DEM), Inside Wire Amortization (IWA), Reserve Deficiency Amortization (RDA), and General Support Facilities (GSF) have a rate base component. The impact of these changes, however, occurred prior to any accounting adjustments made as a result of RAO 20.<sup>28</sup> Therefore, it is impossible that the RAO reversal could impact these exogenous adjustments. Excess Deferred Taxes (EDT) has a rate base component, which is calculated using ARMIS 43-01 row 1840 data. Data reported on this row is not associated with Account 1410, Other Non-Current Assets, or Account 4310, Other Long-Term Liabilities. Therefore, EDT, likewise, is not

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<sup>25</sup> *1996 Suspension Order* ¶20.

<sup>26</sup> Ameritech Reply at 6; Nevada Bell Reply at 4-5; Pacific Bell Reply at 8-9; SWBT Reply at 6-7.

<sup>27</sup> Price cap indices are only impacted by changes in base period quantities, application of the productivity factor netted against changes in the inflation factor, and/or exogenous costs. Exogenous costs are the only adjustments that could have possibly been impacted by rate base revisions.

<sup>28</sup> These adjustments were completed in the 1993 Annual Filing using 1992 base period data. SBC companies did not begin booking amounts in response to RAO 20 until 1993.

impacted by the RAO 20 reversal. Other exogenous adjustments such as those for Regulatory Fees, Telecommunications Relay Service (TRS), Investment Tax Credit (ITC) and Long Term Support (LTS) do not contain a rate base component in the development of the adjustment amount. Therefore, it is impossible that the RAO 20 reversal would impact these adjustments.

**(b) SBC Correctly Calculated Common Line Recovery**

Under the regulations in effect at the time, overall common line recovery was constrained by the basket's PCI. End User Common Line (EUCL) charges, however, were established in part by the Base Factor Portion (BFP) revenue requirement. The BFP revenue requirement was projected based on common line investment and expenses. This calculation was consistent with Commission rules in effect for price cap carriers at the time.<sup>29</sup> Those rules set the maximum EUCL charge as the lesser of the projected BFP per line or the cap per line.<sup>30</sup> Each year's EUCL was dependent only on the current BFP forecast and totally independent of the prior year's BFP or EUCL rates. More importantly, no price cap mechanism existed at the time to allow an EUCL true-up via a temporary going-forward EUCL increase to account for revisions to prior years' projected BFPs. In any event, even if the BFP were adjusted to account for the RAO 20 reversal, the overall common line allowable recovery would remain virtually unchanged because each carrier's overall recovery was constrained by the basket's PCI.

**V. CONCLUSION**

For the foregoing reasons, the Commission does not have the requisite authority to resume this investigation. Should the Commission conclude otherwise, there is no basis for continued investigation into the lawfulness of the SBC LECs' 1996 tariffs.

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<sup>29</sup> 47 C.F.R. 69.104 (1996).

<sup>30</sup> The carry forward effect that exists today with the Common Line, Marketing, Transport Interconnection (CMT) per line methodology used to develop EUCL rates was not applicable at that time.

Respectfully Submitted,

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